IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4275 of 2005

Between:

B. Prasad S/o B. Vaikuntam
R/o 1-3-183/108/30, D.S. Colony, Ramnagar, Hyderabad

..... PETITIONER

AND

The Secretary, Regional Transport Authority Central Zone, Hyderabad

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ or order direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent in insisting for payment of tax along with penalty on petitioner's vehicle bearing Registration No. AP9X 1326 as illegal, arbitrary and unconstitutional and consequently direct the respondent to accept the tax for the petitioner's vehicle by permitting the petitioner to file appeal before the appellate authority for payment of penalty.

Counsel for the Petitioner:MR.B.CHANDRA SHEKHAR

Counsel for the Respondent No.: GP FOR TRANSPORT

The Court made the following :

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ORDER (PER MR.JUSTICE T.CH.SURYA RAO)

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The petitioner questions the action of the respondent in insisting payment of tax along with penalty on the petitioner's vehicle bearing registration No. A.P. X 1326 as illegal, arbitrary and unconstitutional.

The vehicle of the petitioner seems to have been purchased under hire purchase scheme. The petitioner is said to have committed default in paying the instalments. Eventually after some time, the vehicle was seized and same was with the financier. The grievance of the petitioner appears to be that he could not run the vehicle during that period when it was seized by his financier and consequently could not pay the tax. Therefore, he seeks exemption from the tax for that period. In that regard, he submitted a representation to the respondent. Now his grievance appears to be that the respondent is orally insisting payment of tax along with penalty.

We have heard the learned counsel for the petitioner and the learned Government Pleader for Transport.

Obviously no demand has been raised for payment of tax or penalty as the case may be, against the petitioner so far. The case of the petitioner is that the authorities have been insisting him orally for payment of tax along with penalty. There appears no cause of action for the petitioner to approach this Court invoking

its extraordinary jurisdiction. If any demand is raised, he can pursue the legal remedies available to him and if any penalties levied, he can file an appeal before the appropriate forum as per the Motor Vehicles Act and Motor Vehicles Taxation Act. When such action has not been taken by the authorities against the petitioner on the sole plea that they have been insisting for payment of tax and penalty orally, we are afraid, the petitioner cannot approach this court and invoke its extraordinary jurisdiction.

It appears that since no tax has been paid, the fitness certificate pertaining to vehicle in question appears to be lapsed. Unless the tax for the relevant period is paid, in accordance with the provisions of law, no fitness certificate can be issued, in which event he cannot ply the vehicle.

Under those circumstances, it would subserve the interests of justice, if the petitioner is directed to approach the authority-respondent by paying the necessary tax for the relevant period and submit a representation for issuance of fitness certificate, in which event, the authorities shall pass appropriate orders on such representation filed by the petitioner as expeditiously as possible within a period of two weeks from the date of submitting such representation. In the event, any order adverse to the petitioner is passed, liberty is given to the petitioner to approach the appropriate forum.

With the above directions, the Writ Petition is disposed of . No order as to costs.

M.H.S.ANSARI, J

07-03-2005 T.CH.SURYA RAO,J

NOTE:

C.C. on priority basis

B/o.

Stp/Ars

To

1.The Secretary, Regional Transport Authority, Central Zone, Hyderabad.

2.Two CCs to G.P. for Transport, A.P. High Court Buildings, Hyderabad.(out).

3) 2 CD copies

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

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